

**MONTANA DEPARTMENT OF JUSTICE
NON-CMV IMPLIED CONSENT ADVISORY
(Operation of non-commercial motor vehicles only)**

A. You are under arrest for: (check appropriate offense)

- ☐ Driving (or being in actual physical control of) a motor vehicle while under the influence of alcohol (and/or drugs).
☐ Being under 21 years of age and driving (or being in actual physical control of) a motor vehicle with an alcohol concentration of .02 or more.

– OR –

B. I have probable cause to believe that you were driving or in actual physical control of a vehicle, and: (check appropriate circumstance)

- ☐ Were under the influence of alcohol (and/or drugs) in violation of MCA 61-8-401 and the vehicle you were driving was involved in a motor vehicle accident resulting in property damage.
☐ Were involved in a motor vehicle accident resulting in serious bodily injury or death.

Under Montana law, a person in your situation is deemed to have given his or her implied consent to testing for alcohol and possibly testing for drugs.

As the requesting officer, I have the right to select the type of test or tests you will be asked to take. I am going to ask you to take a breath (or blood) test. (Later I may ask you to take a blood test.)

(1) You must decide to take or refuse this test without talking to an attorney. Your right to an attorney under Miranda does not apply.

(2) IF DRIVER IS UNLICENSED OR HOLDS A BASE DRIVER LICENSE (ONLY NON-CMV DRIVING PRIVILEGES):

If you refuse this test, your driver license (if any) will be seized and your driver license, driving privilege and/or privilege to apply for and be issued a driver license will be suspended for six months.

If you have refused similar testing within the past five years and you refuse again today, your driver license will be seized and your privilege to drive and/or apply for and be issued a driver license will be suspended for one year.

(3) IF DRIVER HOLDS A COMMERCIAL DRIVER LICENSE (CDL): In addition to any actions taken against your non-commercial driving privileges, as the holder of a commercial driver license:

If you refuse this test, your commercial driver license will be seized and suspended for one year.

If you have refused similar testing in the past or have a prior major offense on your driving record and you refuse testing today, your commercial driver license will be seized and suspended for life.

(4) If you have a driver license issued by another jurisdiction and you refuse to take this test, your non-resident driving privileges in Montana and/or your privilege to apply for and be issued a driver license will be suspended for a minimum of six months to a maximum of life, depending on the class of license that you are holding (non-CDL or CDL) and your current driving record, plus your license will be seized and returned to the licensing agency of your home jurisdiction along with a report of your testing refusal.

(5) You will not be eligible for a probationary driver license during the suspension.

(6) If you refuse testing, you may contest the action taken against your license by filing a petition in a Montana District Court. The action will not be overturned unless you prove that your arrest or the investigatory stop was unlawful or that you did not refuse testing. You may ask the court to restore your driving privileges until the court rules on your petition.

(7) Your test results or testing refusal may be used as evidence in a criminal trial. Additionally, if you refuse testing today, the jury (or judge in a non-jury trial) may infer from your refusal that you were under the influence of alcohol and/or drugs. The inference is rebuttable.

(8) After the requested testing is completed or refused, you may have a doctor or nurse administer an independent blood test for alcohol or drugs at your expense. If you refuse testing now, taking an independent test will not change the action taken on your driver license.

A breath test requires you to blow a proper sample of air into this instrument. It will analyze your breath sample for alcohol concentration. Will you take a breath test?

Yes _____ No _____

This advisory was read on _____ to:

Name _____

Date of Birth _____

Driver License Number _____

Advising Officer's Signature

Commercial Driver License: ☐ Yes ☐ No
Commercial Motor Vehicle: ☐ Yes ☐ No

Witness Signature - Optional

TO BE RETAINED BY OFFICER FOR FUTURE REFERENCE